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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,761	01/23/2004	Andrew Halliday	67642	7547

48940 7590 06/19/2006

FITCH EVEN TABIN & FLANNERY  
120 S. LASALLE STREET  
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CHICAGO, IL 60603-3406

EXAMINER
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ALEXANDER, REGINALD

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/763,761

Applicant(s)

HALLIDAY ET AL.

Examiner

Reginald L. Alexander

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 7, 9-11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) 10, 11 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9 and 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

This application contains claims 10, 11 and 13 drawn to an invention nonelected with traverse in a communication filed 2/23/2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 7, 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over EPO 0638486 in view of Fond '702.

There is disclosed in the European reference a cartridge containing one or more beverage ingredients and being formed from substantially air and water-impermeable materials, the cartridge comprising a storage chamber containing the ingredients, the cartridge further comprising a filter 10 disposed between the storage chamber and at least a part of an undersurface of a top 2 of the cartridge, one or more passages 11 being formed between the filter and top of the cartridge, which one or more passages communicate with an outlet of the cartridge whereby a beverage flow path linking one or more inlets 7 to the outlet passes upwardly through the filter into the one or more passages.

There is disclosed in Fond a disc-shaped cartridge 1 containing one or more beverage ingredients 5 and being formed from air and water impermeable materials, the cartridge comprising a storage chamber, wherein the aspect ratio of the vertical height of the storage chamber to the breadth of the chamber is between 0.10 and 0.43 (see col. 2, lines 45-50).

It would have been obvious to one skilled in the art to modify the cartridge of EPO 0638486 with that taught in Fond, for the purpose of constructing a beverage cartridge of such size and shape so as to be compatible to different size coffee machines.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over EPO 0057671 in view of Fond '702.

There is disclosed in the European reference a cartridge containing one or more beverage ingredients and being formed from substantially air and water-impermeable materials, the cartridge comprising a disc-shaped outer member 12 having a central axis, an interior storage chamber containing the ingredients, a hollow inwardly directed cylindrical extension 22 centered on the central axis, an upper face 30 positioned radially outward from the central axis, an outlet 28 axially aligned with the extension, and an inlet 42 aligned with the upper face on an opposite side of the cartridge.

There is disclosed in Fond a disc-shaped cartridge 1 containing one or more beverage ingredients 5 and being formed from air and water impermeable materials, the cartridge comprising a storage chamber, wherein the aspect ratio of the vertical height

of the storage chamber to the breadth of the chamber is between 0.10 and 0.43 (see col. 2, lines 45-50).

It would have been obvious to one skilled in the art to modify the cartridge of EPO 0057671 with that taught in Fond, for the purpose of constructing a beverage cartridge of such size and shape so as to be compatible to different size coffee machines.

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

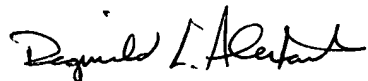
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla  
11 June 2006

  
Reginald L. Alexander  
Primary Examiner  
Art Unit 1761